

STATE OF SOUTH DAKOTA  
OFFICE OF PROCUREMENT MANAGEMENT  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA 57501-3182

**Recruitment of an Interim and Permanent Medicaid Director  
and Organizational Assessment and Implementation Plan**

PROPOSALS ARE DUE NO LATER THAN **SEPTEMBER 6, 2016 5:00 pm CDT**

RFP #749

BUYER: South Dakota  
Department of Social  
Services

POC: Mark Close  
([Mark.Close@state.sd.us](mailto:Mark.Close@state.sd.us))

**READ CAREFULLY**

FIRM NAME: \_\_\_\_\_ AUTHORIZED SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TYPE OR PRINT NAME: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ZIP (9 DIGIT): \_\_\_\_\_ FAX NO: \_\_\_\_\_

FEDERAL TAX ID#: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

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**PRIMARY CONTACT INFORMATION**

CONTACT NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

FAX NO: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

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## **1.0 GENERAL INFORMATION**

### **1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)**

The South Dakota Department of Social Services' (DSS) mission is to strengthen and support individuals and families by promoting cost effective and comprehensive services in connection with our partners that foster independent and healthy families.

The Department of Social Services is seeking qualified vendors to recruit a qualified candidate as the interim and permanent director for the South Dakota Medicaid program, make recommendations for salary necessary to recruit and retain qualified candidates. DSS is also seeking qualified vendors to complete an organizational change management assessment and implementation plan focused in the areas of care management, program integrity, and claims payment.

### **1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER**

The Department of Social Services is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota, Department of Social Services. The reference number for the transaction is RFP #749. Refer to this number on all proposals, correspondence, and documentation relating to the RFP.

Please refer to the Department of Social Services website link <http://dss.sd.gov/keyresources/rfp.aspx> for the RFP, any related questions/answers, changes to schedule of activities, amendments, etc.

### **1.3 LETTER OF INTENT**

All interested offerors are requested to submit a non-binding **Letter of Intent** to respond to this RFP. While preferred, a Letter of Intent is not mandatory to submit a proposal.

The letter of intent must be received by email in the Department of Social Services by no later than August 10<sup>th</sup>, 2016 and must be addressed to [Mark.Close@state.sd.us](mailto:Mark.Close@state.sd.us). Place the following, exactly as written, in the subject line of your email: **Letter of Intent for RFP #749**. Be sure to reference the RFP number in any attached letter or document.

### **1.4 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)**

RFP Publication	<u>August 2, 2016</u>
Letter of Intent to Respond Due (preferred but not required)	<u>August 10, 2016</u>
Deadline for Submission of Written Inquiries	<u>August 10, 2016</u>
Responses to Offeror Questions	<u>August 19, 2016</u>
Proposal Submission	<u>September 6, 2016 5:00 pm CDT</u>
Anticipated Award Decision/Contract Negotiation	<u>September 30, 2016</u>

### **1.5 SUBMITTING YOUR PROPOSAL**

All proposals must be completed and received in the Department of Social Services by the date and time indicated in the Schedule of Activities. Proposals received after the deadline will be late and ineligible for consideration.

Offerors must submit an original and three (3) identical copies of their proposal, including their cost proposal(s) and all attachments. Offerors must also submit one (1) digital, Portable Document Format (PDF) copy, including cost proposal(s) and all attachments loaded on a USB flash drive.

All proposals must be signed in ink by an officer of the responder legally authorized to bind the responder to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected.

**Proposals must be addressed and labeled as follows:**

**Request For Proposal #749 Proposal Due September 6, 2016**  
**Attn: Mark Close**  
**700 Governors Drive, Pierre, SD 57501**

No punctuation is used in the address. The above address as displayed should be the only information in the subject field.

No proposal may be accepted from, or any contract or purchase order awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

**1.6 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

**1.7 NON-DISCRIMINATION STATEMENT**

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

**1.8 MODIFICATION OR WITHDRAWAL OF PROPOSALS**

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

**1.9 OFFEROR INQUIRIES**

Offerors may email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after August 10<sup>th</sup>. Email inquiries must be sent to [Mark.Close@state.sd.us](mailto:Mark.Close@state.sd.us) with the following wording, exactly as written, in the subject line: **RFP #749 Questions.**

The Department of Social Services will respond to offerors inquiries by posting the offeror aggregated questions and Department responses on the DSS website at <http://dss.sd.gov/keyresources/rfp.aspx> no later than August 19, 2016. Offerors may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP.

#### **1.10 PROPRIETARY INFORMATION**

The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

#### **1.11 LENGTH OF CONTRACT**

The initial term of the contract is anticipated to be 12 months in duration.

#### **1.12 GOVERNING LAW**

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in Hughes County, State of South Dakota. The laws of South Dakota shall govern this transaction.

#### **1.13 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATION/NEGOTIATIONS)**

An oral presentation by an offeror to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the offeror. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the offeror's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

### **2.0 STANDARD AGREEMENT TERMS AND CONDITIONS**

Any contract or agreement resulting from this RFP will include, at minimum, the State's standard terms and conditions as seen in Attachment A. The Offeror should indicate in their response any

– issues they have with any specific contract terms. If the Offeror does not indicate any contract term issues, then the State will assume the terms are acceptable.

### **3.0 SCOPE OF WORK**

Section 3.0 includes the scope of work including key vendor deliverables and projected duration. The Scope of Work includes two components: Component A – Recruitment of an interim and permanent Medicaid Director, and Component B- Organizational Change Assessment and Implementation Plan. Offerors must submit proposals for both components.

#### **Component A: Recruitment for an interim and permanent Medicaid Director**

1. Recruit an interim Medicaid Director (3 months)
  - Recruit an Interim Medicaid Director to provide day to day administration and management of the Medicaid program.
  - Candidate will be qualified by training and experience and interviewed and approved by the state prior to making an employment offer. Qualifications include: knowledge of health care reform, experience with health care insurance practice to include program design, service delivery models, provider relations, budget and overall management.
  - Vendor will report weekly with written report to include recruitment efforts and number of qualified candidates identified, screened and recommended for interview.
2. Analyze and make recommendation for salary range needed to recruit a skilled Medicaid Director (1 month)
  - Analysis to include review of regional state Medicaid directors and private health plan administrator salaries.
  - Vendor will report weekly on progress toward deliverable date agreed upon by the parties.
3. Recruit a permanent Medicaid Director (6 months)
  - Recruit a permanent Medicaid Director. Candidate will be qualified by training and experience and interviewed and approved by the state prior to making an employment offer. Qualifications include: a bachelor's degree in Public, Healthcare, or Business Administration, master's degree highly preferred, knowledge of health care reform, and experience with health care insurance practice, including program design, service delivery models, provider relations, budget development and overall management.
  - Vendor will report weekly with written report summarizing recruitment efforts to include qualified candidates identified, screened, recommended for interview, etc.

#### **Component B: Organizational Change Management Assessment/Implementation Plan (6 months)**

1. DSS is seeking a qualified vendor to conduct or review completed assessments of current business processes and make recommendations to align with industry standards, develop impact assessments, and specifically identify opportunities to leverage best practices in private health plans or other Medicaid programs. Areas of focus include Care Management, including prior authorization and case management, claims payment, program integrity and other Medicaid operations.
2. Care Management (including prior authorization and case management)

Review current business processes, staffing configurations, and develop recommendations to align processes with industry standards in this area. Develop impact assessments and specifically identify opportunities to leverage private health plans or other Medicaid program best practices.

#### Contractor Deliverables

- Summary of current business processes.
- Summarize recommendations to align with best practices of other health plans/Medicaid programs and alternative service delivery models.
- Impact assessment to include benefits, risks, projected costs and timelines, level of resources necessary to implement recommendations. Specifically explore feasibility of external administration of processes and alternative service delivery models in this area. Assessment will also identify specific return on investment and any information system impacts, including impacts to current or future Medicaid Management Information System (MMIS) processes and an overall ROI on alternative models of delivery.
- Weekly written reports and oral status update meeting to include status and progress toward key deliverables.

#### Claims Payment and Program Integrity

Review DSS' current assessment of options for Claims Payment and Program Integrity replacement or external administration. Evaluate current staffing configurations and refine fiscal impacts for alternative delivery models to include ROI and compile summary report to include the following deliverables.

#### Contractor Deliverables

- Summary of current business processes and current assessment of options.
- Add additional recommendations to align with best practices of other health plans/Medicaid programs.
- Refine assessment to include benefits, risks, specific projected costs and timelines, and level of resources necessary to implement options.
- Weekly written reports and oral status and progress toward key deliverables.

3. Other technical assistance as requested. DSS may request additional technical assistance in other operational areas.

## **4.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS**

4.1 The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.

4.2 **Offeror's Contacts:** Offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the point of contact of the buyer of record indicated on the first page of this RFP. Offerors and their agents may not contact any state employee other than the buyer of record regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer of record.

4.3 The offeror may be required to submit a copy of their most recent independently audited financial statements.

- 4.4 Provide the following information related to at least three previous and current service/contracts performed by the offeror's organization which are similar to the requirements of this RFP. Provide this information for any service/contract that has been terminated, expired or not renewed in the past three years:
- a. Name, address and telephone number of client/contracting agency and a representative of that agency who may be contacted for verification of all information submitted;
  - b. Dates of the service/contract; and
  - c. A brief, written description of the specific prior services performed and requirements thereof.
- 4.5 The offeror must submit information that demonstrates their availability and familiarity with the locale in which the project (s) are to be implemented.
- 4.6 The offeror must detail examples that document their ability and proven history in handling special project constraints.
- 4.7 The offeror must describe their proposed project management techniques.
- 4.8 If an offeror's proposal is not accepted by the State, the proposal will not be reviewed/evaluated.

## **5.0 PROPOSAL RESPONSE FORMAT**

- 5.1 An electronic original shall be submitted as outlined in Section 1.5.
- 5.2 All proposals must be organized and tabbed with labels for the following headings:
- 5.2.1 **RFP Form.** The State's Request for Proposal form completed and signed.
  - 5.2.2 **Executive Summary.** The one or two page executive summary is to briefly describe the offeror's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the offeror. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.
  - 5.2.3 **Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:
    - 5.2.3.1 A complete narrative of the offeror's assessment of the work to be performed, the offeror's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the offeror's understanding of the desired overall performance expectations.
    - 5.2.3.2 A specific point-by-point response, in the order listed, to each requirement in the RFP as detailed in Sections 3 and 4. The response should identify each requirement being addressed as enumerated in the RFP.
    - 5.2.3.3 A clear description of any options or alternatives proposed.

- 5.2.4 **Cost Proposal.** Cost will be evaluated independently from the technical proposal. Offerors may submit multiple cost proposals. All costs related to the provision of the required services must be included in each cost proposal offered.

The cost proposal must be submitted in a separate document labeled "Cost Proposal".

See section 7.0 for more information related to the cost proposal.

## **6.0 PROPOSAL EVALUATION AND AWARD PROCESS**

- 6.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria listed in order of importance:
- 6.1.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
  - 6.1.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;
  - 6.1.3 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
  - 6.1.4 Availability to the project locale;
  - 6.1.5 Familiarity with the project locale;
  - 6.1.6 Proposed project management techniques;
  - 6.1.7 Ability and proven history in handling special project constraints, and
  - 6.1.8 Cost proposal.
- 6.2 Experience and reliability of the offeror's organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
- 6.3 The qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
- 6.4 The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.
- 6.5 **Award:** The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.



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- 6.5.1 If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.
  - 6.5.2 The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached or the agency terminates the contracting process.

## 7.0 **COST PROPOSAL**

Vendors should submit separate cost proposal totals for Component A and Component B. Cost proposals should include the cost for each deliverable outlined in Section 3.0.

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**STATE OF SOUTH DAKOTA  
DEPARTMENT OF SOCIAL SERVICES  
DIVISION OF MEDICAL SERVICES**

**Consultant Contract  
For Consultant Services  
Between**

State of South Dakota  
Department of Social Services  
OFFICE OF THE SECRETARY  
700 Governors Drive  
Pierre, SD 57501-2291

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Referred to as Consultant

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Referred to as State

**The State hereby enters into a contract for consultant services with the Consultant. While performing services hereunder, Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.**

1. **CONSULTANT'S South Dakota Vendor Number is** \_\_\_\_\_.
2. PERIOD OF PERFORMANCE:
  - A. This Agreement shall be effective as of June 1, 2015 and shall end on May 31, 2016, unless sooner terminated pursuant to the terms hereof.
  - B. Agreement is the result of request for proposal process, RFP # \_\_\_\_\_
3. PROVISIONS:
  - A. The Purpose of this Consultant contract:
    - 1.
    2. Does this agreement involve Protected Health Information (PHI)? YES ( X ) NO ( )  
If PHI is involved, a Business Associate Agreement must be attached and is fully incorporated herein as part of the agreement (refer to attachment) .
    3. The consultant will use state equipment, supplies or facilities.
  - B. The Consultant agrees to perform the following services (add an attachment if needed.):
    - 1.
  - C. The State agrees to:
    - 1.
    2. Make payment for services upon satisfactory completion of services and receipt of bill. Payment will be in accordance with SDCL 5-26.
    3. Will the State pay Consultant expenses as a separate item?  
YES ( ) NO ( X )  
If YES, expenses submitted will be reimbursed as identified in this agreement.
  - D. The TOTAL CONTRACT AMOUNT will not exceed \$ \_\_\_\_\_.

4. **BILLING:**

Consultant agrees to submit a bill for services within (30) days following the month in which services were provided. Consultant will prepare and submit a monthly bill for services. Consultant agrees to submit a final bill within 45 days of the contract end date to receive payment for completed services. If a final bill cannot be submitted in 45 days, then a written request for extension of time and explanation must be provided to the State.

5. **TECHNICAL ASSISTANCE:**

The State agrees to provide technical assistance regarding Department of Social Services rules, regulations and policies to the Consultant and to assist in the correction of problem areas identified by the State's monitoring activities.

6. **LICENSING AND STANDARD COMPLIANCE:**

The Consultant agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this agreement. The Consultant will maintain effective internal controls in managing the federal award. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Consultant's failure to ensure the safety of all individuals served is assumed entirely by the Consultant.

7. **ASSURANCE REQUIREMENTS:**

The Consultant agrees to abide by all applicable provisions of the following assurances: Lobbying Activity, Byrd Anti Lobbying Amendment (31 USC 1352), Debarment and Suspension (Executive orders 12549 and 12689), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013 and American Recovery and Reinvestment Act of 2009 as applicable.

8. **RETENTION AND INSPECTION OF RECORDS:**

The Consultant agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, statistical, fiscal, other records, and information necessary for reporting and accountability required by the State. The Consultant shall retain such records for a period of six years from the date of submission of the final expenditure report. If such records are under pending audit, the Consultant agrees to hold such records for a longer period upon notification from the State. The State, through any authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Agreement. State Proprietary Information retained in Consultant's secondary and backup systems will remain fully subject to the obligations of confidentiality stated herein until such information is erased or destroyed in accordance with Consultant's established record retention policies.

All payments to the Consultant by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment of this contract shall be returned to the State within thirty days after written notification to the Consultant.

9. **WORK PRODUCT:**

Consultant hereby acknowledges and agrees that all reports, plans, specifications, technical data, drawings, software system programs and documentation, procedures, files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, State Proprietary Information, State Data, End User Data, Personal Health Information, and all information contained therein provided to the State by the Consultant in connection with its performance of service under this Contract shall belong to and is the property of the State and will not be used in any way by the Consultant without the written consent of the State.

Paper, reports, forms software programs, source code(s) and other materials which are a part of the work under this Contract will not be copyrighted without written approval of the State. In the unlikely event that any copyright does not fully belong to the State, the State none the less reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and otherwise use, and to authorize others to use, any such work for government purposes.

Consultant agrees to return all information received from the State to State's custody upon the end of the term of this contract, unless otherwise agreed in a writing signed by both parties.

10. **TERMINATION:**

This contract may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Contract may be terminated by the State for cause at any time, with or without notice. Upon termination of this agreement, all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination.

11. **FUNDING:**

This Contract depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Contract will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

12. **AMENDMENTS:**

This Contract may not be assigned without the express prior written consent of the State. This Contract may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

13. **CONTROLLING LAW:**

This Contract shall be governed by and construed in accordance with the laws of the State of South Dakota. Venue for any lawsuit pertaining to or affecting this Agreement shall be resolved in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

14. **SUPERCESSION:**

All prior discussions, communications and representations concerning the subject matter of this Contract are superseded by the terms of this Contract, and except as specifically provided herein, this Contract constitutes the entire agreement with respect to the subject matter hereof.

15. **IT STANDARDS:**

Consultant warrants that the software and hardware developed or purchased for the state will be in compliance with the BIT Standards including but not limited to the standards for security, file naming conventions, executable module names, Job Control Language, systems software, and systems software release levels, temporary work areas, executable program size, forms management, network access, tape management, hosting requirements, administrative controls, and job stream procedures prior to the installation and acceptance of the final project. BIT standards can be found at <http://bit.sd.gov/standards/>.

16. **SEVERABILITY:**

In the event that any provision of this Contract shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this contract, which shall remain in full force and effect.

17. **NOTICE:**

Any notice or other communication required under this Contract shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and by the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

18. **SUBCONTRACTORS:**

The Consultant may not use subcontractors to perform the services described herein without express prior written consent from the State. The State reserves the right to reject any person from the contract presenting insufficient skills or inappropriate behavior.

The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Contract, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Contract. The Consultant will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance. The State, at its option, may require the vetting of any subcontractors. The Consultant is required to assist in this process as needed.

**19. HOLD HARMLESS:**

The Consultant agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

**20. INSURANCE:**

Before beginning work under this Contract, Consultant shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Contract. The Consultant, at all times during the term of this Contract, shall obtain and maintain in force insurance coverage of the types and with the limits listed below. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Consultant agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Consultant shall furnish copies of insurance policies if requested by the State.

**A. Commercial General Liability Insurance:**

Consultant shall maintain occurrence-based commercial general liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two times the occurrence limit.

**B. Business Automobile Liability Insurance:**

Consultant shall maintain business automobile liability insurance or an equivalent form with a limit of not less than \$500,000 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.

**C. Worker's Compensation Insurance:**

Consultant shall procure and maintain Workers' Compensation and employers' liability insurance as required by South Dakota law.

**D. Professional Liability Insurance:**

Consultant agrees to procure and maintain professional liability insurance with a limit not less than \$1,000,000.

(Medical Health Professional shall maintain current general professional liability insurance with a limit of not less than one million dollars for each occurrence and three million dollars in the aggregate. Such insurance shall include South Dakota state employees as additional insureds in the event a claim, lawsuit, or other proceeding is filed against a state employee as a result of the services provided pursuant to this Contract. If insurance provided by Medical Health Professional is provided on a claim made basis, then Medical Health Professional shall provide "tail" coverage for a period of five years after the termination of coverage.)

**21. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:**

Consultant certifies, by signing this agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by the federal government or any state or local government department or agency. Consultant further agrees that it will immediately notify the State if during the term of this Contract either it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

22. CONFLICT OF INTEREST:

Consultant agrees to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal organizational conflict of interest, or personal gain. Any potential conflict of interest must be disclosed in writing.

23. REPORTING PROVISION:

Consultant agrees to report to the State any event encountered in the course of performance of this Contract which results in injury to any person or property, or which may otherwise subject Consultant, or the State of South Dakota or its officers, agents or employees to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

24. CONFIDENTIALITY OF INFORMATION:

For the purpose of the sub-paragraph, "State Proprietary Information" shall include all information disclosed to the Consultant by the State. Consultant acknowledges that it shall have a duty to not disclose any State Proprietary Information to any third person for any reason without the express written permission of a State officer or employee with authority to authorize the disclosure. Consultant shall not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this contract; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this contract; (iii) make State Proprietary Information available to any of its employees, officers, agents or consultants except those who have agreed to obligations of confidentiality at least as strict as those set out in this contract and who have a need to know such information. Consultant is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. Consultant shall protect confidentiality of the State's information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced. State Proprietary Information shall not include information that (i) was in the public domain at the time it was disclosed to Consultant; (ii) was known to Consultant without restriction at the time of disclosure from the State; (iii) that is disclosed with the prior written approval of State's officers or employees having authority to disclose such information; (iv) was independently developed by Consultant without the benefit or influence of the State's information; (v) becomes known to Consultant without restriction from a source not connected to the State of South Dakota. State's Proprietary Information shall include names, social security numbers, employer numbers, addresses and all other data about applicants, employers or other clients to whom the State provides services of any kind. Consultant understands that this information is confidential and protected under applicable State law at SDCL 1-27-1.5, modified by SDCL 1-27-1.6, SDCL 28-1-29, SDCL 28-1-32, and SDCL 28-1-68 as applicable federal regulation and agrees to immediately notify the State if the information is disclosure, either intentionally or inadvertently. The parties mutually agree that neither of them shall disclose the contents of the contract except as required by applicable law or as necessary to carry out the terms of the contract or to enforce that party's rights under this contract. Consultant acknowledges that the State and its agencies are public entities and thus are bound by South Dakota open meetings and open records laws. It is therefore not a breach of this contract for the State to take any action that the State reasonably believes is necessary to comply with the South Dakota open records or open meetings laws. If work assignments performed in the course of this Agreement require additional security requirements or clearance, the Consultant will be required to undergo investigation.

25. AUTHORIZED SIGNATURES:

In witness hereto, the parties signify their agreement by affixing their signatures hereto.

_____ Consultant Signature	_____ Date
_____ State - DSS Division Director Virgena Wieseler	_____ Date
_____ State - DSS Deputy Secretary Brenda Tidball-Zeltinger	_____ Date
_____ State - DSS Cabinet Secretary Lynne A. Valenti	_____ Date

**State Agency Coding:**

CFDA #	_____	_____	_____	_____
Company	_____	_____	_____	_____
Account	_____	_____	_____	_____
Center Req	_____	_____	_____	_____
Center User	_____	_____	_____	_____
Dollar Total	_____	_____	_____	_____

DSS Program Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_

DSS Fiscal Contact Person Patty Hanson  
Phone 605 773-3586

Consultant Program Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_

Consultant Fiscal Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_

Consultant Email Address \_\_\_\_\_

**SDCL 1-24A-1 states that a copy of all consulting contracts shall be filed by the State agency with the State Auditor within five days after such contract is entered into and finally approved by the contracting parties. For further information about consulting contracts, see the State Auditor's policy handbook.**